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Mr. Pat Miller, Chairman  
Attn: John Hutton  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

December 22, 2004

04-00434

Received  
RON JONES

DEC 23 2004  
TN Regulatory Authority

**RE:** Comments – Wastewater Forum – December 9, 2004

Dear Mr. Miller:

Thank you again for this opportunity. We have been very pleased with the interest the authority has with our input in the process of certification and permitting of wastewater systems. Enclosed are comments we have in summary of the wastewater forum. We have broken our summary into three main areas: bonding/regulations, exclusive service areas, and the Tennessee Department of Environment and Conservation (TDEC) Permitting/Tennessee Regulatory Authority (Authority) Certification.

**Bonding/Regulations.** We are agreeable to providing surety for TDEC and the Authority. It is suggested that any bonding be combined between both state agencies to keep the costs to the consumer as low as possible. The construction of the systems is typically bonded by the local municipal planning boards. We don't see any need for any additional bonding for the construction. It is also suggested that a one time bonding for each provider be administered versus bonding each system. If each system is bonded it will be lucrative for the insurance companies at the expense of the customers since this is a pass through cost according to approved tariffs.

The regulations appear to be adequate. The site review process in TDEC should be reviewed. Extra-high Intensity Soil Maps were designed with empirical numbers to be compared with a table for drainfield leach bed design. Most of the systems being employed by the privately owned public utilities utilize subsurface drip irrigation for ultimate wastewater disposal. There is a possibility that the existing map requirements may not be satisfactory for all conditions. Our company provides additional interpretation in evaluating a site for suitability.

**Exclusive Service Areas:** There are three basic reasons that are touted for allowing exclusive service areas: That an area can be serviced better, environmental conditions can be considered within a watershed, and the saving of time due to the lack of the requirement of Authority certification of each project. All three of these reasons we find are not adequate.

Firstly, we concur that each project presently is being serviced within the accepted tariff that is structured properly to assure good service. The suggestion of better service being able to be obtained suggests that the current service is not as good as it could be. We are able to provide the best service within our designed plan as structured and do not suggest that we need a whole region to offer the best service.

The geomorphological features in Tennessee are very diverse. Many watersheds cut across many different geologic units and also different geomorphologic features. Therefore, to assume one system or one application rate should be suited for an entire watershed or region is in error.

With regard to the time element, all of the systems need to be reviewed by TDEC and a 30 day notice is required for the State Operating Permit. Also, local planning regions take more than 30 days for preliminary plat reviews and greater than this for final plat reviews. If this work is done simultaneously with the Authority processes for uncontested cases, there is no benefit of time to have an exclusive region.

The main deterrent for any exclusive region is that a monopoly in that region is immediately formed. IRM Utility, Inc. has been in the process of preparing a proposal for a new rate structure that will include a cost savings for the consumer. We will propose lower rates based on systems that are more reliable and not as costly to operate. By giving an exclusive territory we may not be able to offer a less expensive alternative to the consumer and will be precluded from doing business in the area. This seems contradictory to the mission statement of the TRA.

*Certification & Permitting:* For uncontested cases we suggest a combined timeline between the Authority and TDEC for a simultaneous approval process. If an initial preliminary review or checklist of requirements is reviewed by each agency, then a preliminary recommendation can be made from each agency to the other that intent is to certify or permit the activity. Then each agency can move forward knowing what the basic position is of the other agency. Below is a suggested timeline:

| Authority   |   | TDEC   |
|---|---|--|
| An initial application is made.   |   | An initial application is made.  |
| Checklist reviewed:   | § | Checklist reviewed:  |
| Is this different from other applications?                                |   | Is this different from other applications?   |
| Is the service area defined?  |   | Is the system a previously approved system?  |
| Are there appropriate letters of support?                                 |   | Is this a permissible activity?  |
| Is this service within the approved tariff?                               |   | Can this go to public notice?  |
| Notice is given to TDEC.  |   | Notice is given to the Authority.  |
| Additional staff review and recommendations.                              |   | Additional engineering and plans review and recommendations.   |
| Project placed on agenda for Directors Conference.                        |   | Public Notice simultaneous with Authority notification. Possibly same notice including both contact lists. |
| Project approved contingent or with the provision that TDEC will approve. |   | Permit is written.   |

A 10 day initial review process with a 30 day notice and final review period would enable a 40 day turn around time. This would be excellent for our clients. We would be able to serve developers, communities, and commercial entities in a very efficient timeframe. The contested areas that have occurred recently is a result of the need for clarification and the education process. I feel this will become less of a problem in the near future.

Thank you again for your considerations. Please call if you have any questions.

Respectfully submitted,  
**IRM Utility, Inc.**

A handwritten signature in black ink, reading "Jeffrey W. Cox, Sr." with a stylized flourish at the end.

Jeffrey W. Cox, Sr.  
President

JWCSr/mjc

cc Chuck Welch  
Scott Williams